

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 3259 of 2005

Between:

Smt. Dasari Sarojini, D/o Dasari Sanyasi Naidu, Hindu,
Processing and Sales Industrial Co-op Society, Devarapalli Village and Mandal,
Visakhapatnam District.

..... PETITIONER

AND

- 1 The Chief General Manager, O & C.S. Eastern Power Distribution Co.Ltd,
Daba Gardens, Visakhapatnam.
- 2 The Superintending Engineer,(Assessments), Visakhapatnam.
- 3 The Addl. Assistant Engineer (Operation), A.P.E.P.D.C. Ltd, Devarapalli
Post, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue rule nisi calling for the records leading up to and inclusive of proceedings of the 3rd respondent in Letter No. AAE/O/DPC/D.No. 71 dated 17-2-2005 disconnecting the power supply to S.C.No. 1022 belonging to Sri Hanuman Cereals and Pulses Processing and Sales Industrial Co-operative Society Ltd, Devarapalli Village & Mandal, Visakhapatnam and quash the same by issuing a writ, order or direction in the nature of Certiorari and pass such other order or orders in the circumstances of the case.

Counsel for the Petitioner: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court made the following :

-

ORDER:

Heard both sides and at their request this case is taken up for disposal at the stage of admission.

The sole grievance of the petitioner is that against the final assessment orders passed by the Superintendent Engineer, who is the second respondent herein dated 26.10.2004, an appeal had been preferred to the appellate authority. As per the suggestion made by the said authority, the appeal had been preferred as long back as on 25.11.2004, but, so far, the said appeal has not been disposed of.

It is brought to the notice of this court by the learned counsel appearing for the respondent that as per sub-section (2) of Section 127 of the A.P. Electricity Act, 2003, the statutory pre-requisite is 1/3rd of the assessment amount has to be deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has to be enclosed along with the appeal.

The counsel appearing for the petitioner is not in a position to assert as to whether the condition precedent had been complied with or not. In all probability, as the said condition precedent had not been complied with, the appeal could not have been disposed of. Of course, this is only an inference.

If this condition precedent had not been complied with, it is incumbent upon the appellate authority to return the appeal for want of compliance of statutory condition. This has not happened.

Therefore, having regard to the facts and circumstances of the case, the appellate authority- first respondent herein, is directed to verify as to whether the condition envisaged under sub-section (2) of Section 127 of the Electricity Act 2003, had been complied with or not and if not complied with, the papers may be returned to the petitioner for compliance of the same. Upon such representation of the appeal in complete compliance of the statutory formalities, the appellate authority shall dispose of the appeal, as expeditiously as possible, preferably within a period of six weeks from the date of such representation. If no representation of the papers is made, within the time stipulated by the appellate authority, it shall be treated as if that there was no appeal. However, having regard to the facts and circumstances and also in view of the hardship being caused to the petitioner, the electricity supply shall be restored forthwith and shall be in subsistence pending disposal of the appeal.

Accordingly, the Writ Petition is disposed of. No costs.

D.S.R. VARMA, J

DATED: 01.03.2005

Ka

Note: communicate wire at party's cost.

To

- 1 The Chief General Manager, O & C.S. Eastern Power Distribution Co.Ltd,
Daba Gardens, Visakhapatnam.
- 2 The Superintending Engineer,(Assessments), Visakhapatnam.
- 3 The Addl. Assistant Engineer (Operation), A.P.E.P.D.C. Ltd, Devarapalli
Post, Visakhapatnam District.
4. 2 CD Copies.